

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

JOSÉ A. CRUZ-KERKADO, *ET AL*

Plaintiffs

v.

COMMONWEALTH OF PUERTO RICO (BY
WAY OF THE PUERTO RICO DEPARTMENT
OF JUSTICE a/k/a DEPARTAMENTO DE
JUSTICIA, *ET AL*

Defendants

CIVIL NO. 16-2748 (ADC)

**PRSA'S MOTION TO WITHDRAW WITHOUT PREJUDICE CERTAIN
ARGUMENTS MADE IN ITS MOTION TO DISMISS AT DKT NO. 50**

Defendant Federación de Tiro de Armas Cortas y Rifles de Puerto Rico a/k/a the Puerto Rico Shooting Association ("PRSA"), by counsel, respectfully states and prays:

1. Plaintiffs filed this §1983 suit alleging violations to the First and Second Amendments. (Amended Complaint, Docket No. 29).
2. PRSA and the Commonwealth filed motions to dismiss arguing, *inter alia*, that Plaintiffs failed to state a plausible constitutional claim. (See Docket Nos. 48, 50).
3. PRSA also argued separately that Plaintiffs failed to plead that PRSA's conduct was attributable to the State (*i.e.*, the Commonwealth) and that Plaintiffs thus failed to state a §1983 claim against PRSA. PRSA now moves to specifically withdraw this argument without prejudice. (See PRSA's Motion to Dismiss, Docket No. 50, pp. 7-14).
4. PRSA submits, however, that all other arguments made by PRSA and the Commonwealth (about why Plaintiffs' challenge must be dismissed) remain valid. In other words, PRSA insists that dismissal of Plaintiffs' First and Second Amendment claims for failure to state a claim is still proper.

WHEREFORE, Defendant PRSA moves to withdraw without prejudice its argument (in pages 7–14 in its motion to dismiss at Docket No. 50) regarding whether Plaintiffs plead that PRSA’s conduct is attributable to the state.

RESPECTFULLY SUBMITTED.

I hereby certify that today I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

In San Juan, Puerto Rico, this 11th day of January, 2018.

**MORELL CARTAGENA
& DAPENA**

PO Box 13399
San Juan, PR 00908
Tel. 787-723-1233
Fax. 787-723-8763

/s/ Ramón E. Dapena

Ramón E. Dapena
USDC PR No. 125005
Email: ramon.dapena@mbcdlaw.com

/s/ Iván J. Llado

Iván J. Llado
USDC PR No. 302002
Email: ivan.llado@mbcdlaw.com

*Counsel for Defendant Puerto Rico Shooting
Association a/k/a Federación de Tiro de Armas
Cortas y Rifles de Puerto Rico*